IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 4-12-2007

CORAM

THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.No.28231 of 2007

and
MP No.1 of 2007

M.Kumaresan .. Petitioner

vs

1.The Chief Executive Officer
Khadi and Village Industries Board
Kuralagam, Chennai 108.

2.The Assistant Director
Khadi and Village Industries
Kancheepuram .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus to call for the records of the first respondent in R.C.No.32236/E11 (1)/02 dated 17.8.2007 and the consequential order passed by the 2nd respondent in R.C.No.3140/2002/E dated 21.8.2007 and quash the same and direct the respondents to regularise the services of the petitioner in terms of the Tamilnadu Industrial Establishments (Conferment of Permanent Status to Workman) Act, 1981.

For Petitioner : Mr.S.Kamadevan

For Respondents : Mr.S.Packiaraj for RR1 & 2

ORDER

Challenge is made to an order of the first respondent made in R.C.No.32236/E11 (1)/02 dated 17.8.2007 and the consequential order passed by the 2nd respondent in R.C.No.3140/2002/E dated 21.8.2007, in this writ petition by the petitioner.

2.The affidavit in support of the petition is perused. The Court heard the learned Counsel on either side.

3.The only grievance ventilated by the petitioner, is that he joined as a Night Watchman in the Khadi and Village Industries Board on 5.5.1990, on daily wage basis and has been working for more than a decade; but, his services have not been regularised; that though number of representations were made, they were not considered; that under the circumstances, he approached this Court

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on the earlier occasion by way of a writ petition in WP No.15184/95; that there was a direction issued by this Court to the authorities to consider the representation and give permanent status on completion of 480 days of continuous service in terms of Tamilnadu Industrial Establishment (Conferment of Permanent Status to Workman) Act, 1981; that though he has completed 480 days of continuous service and sufficient materials are available, his services have not been regularised; that his representation was kept pending for a longtime; that once he issued a contempt notice, the representation was dismissed stating that he is not entitled to, and under the circumstances, he was compelled to approach this Court with the present writ petition.

4.The order under challenge is perused, from which it could be seen that the petitioner has not worked on regular basis as a watchman all along the years; but, his services were utilised when there was work in the said post, and it was not on permanent basis. Apart from that, even according to the petitioner's case, he was appointed by the Assistant Director, Khadi and Village Industries, Kancheepuram. But, he was not the competent authority for appointing any person to the Board's service, and thus, the petitioner's appointment made originally, was illegal. Even assuming that he had worked for number of years, that will not cure the illegality, and hence, his services could not be regularised.

5.The learned Counsel for the petitioner made emphasis that it is true that he was appointed by the Assistant Director, Khadi and Village Industries, Kancheepuram; but, he worked for more than 17 years and completed 480 days of service continuously for a period of two years, and under the circumstances, his services have got to be regularised.

6.At this juncture, the Court heard the learned Counsel for the respondents on the above contentions.

7.After doing so, this Court is of the considered opinion that it is not a fit case where the relief could be granted; but, liberty could be given to the petitioner to approach the Deputy Commissioner of Labour seeking for permanent status in respect of the service, since, according to him, he has completed 480 days of continuous service within a period of two years. With that liberty, this writ petition is disposed of. No costs. Consequently, connected MP is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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nsv/

To:

1.The Chief Executive Officer
  Khadi and Village Industries Board
  Kuralagam, Chennai 108.

2.The Assistant Director
  Khadi and Village Industries
  Kancheepuram

1 cc to Mr.S. Kamadevan, Advocate, Sr. 71675

WP No.28231 of 2007

SP (CO)
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